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FISCAL IMPACT STATEMENT

LS 6129 | **NOTE PREPARED:** Apr 14, 2009
BILL NUMBER: HB 1036 | **BILL AMENDED:** Apr 9 2009

SUBJECT: Education issues.

FIRST AUTHOR: Rep. Klinker | **BILL STATUS:** As Passed Senate
FIRST SPONSOR: Sen. C. Lawson

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: (Amended) *Lifelong Learning Account Pilot Program*: This bill requires the Indiana Housing and Community Development Authority (IHCDA) to establish and administer a Lifelong Learning Account Pilot Program. It requires the IHCDA to seek grants and other funding for the pilot program from public and private entities.

The bill provides that the annual household income of a participating individual may not exceed 300% of the federal income poverty level. It specifies that a lifelong learning account established for a participating individual must: (1) be an account in a financial institution; and (2) allow a participating individual to deposit, from the individual's earned income, money that may be matched by the participating individual's employer, a financial institution, the state, or any other entity, and that will be used by the participating individual for education and training costs at a postsecondary educational institution, a vocational school, or a training program that may lead to employment for the individual.

The bill also provides that money withdrawn from a participating individual's lifelong learning account is not subject to state income taxation if the money is used by the participating individual for specified education and training costs. It specifies that money in a participating individual's lifelong learning account may not be considered: (1) an asset of the participating individual when determining the individual's eligibility for the Temporary Assistance for Needy Families program; or (2) a countable asset for purposes of township assistance.

Lifelong Learning Account Tax Credit: The bill provides a state tax credit for contributions to a lifelong learning account.

School Scholarship Tax Credit: The bill provides that a taxpayer is entitled to a state tax credit for a contribution to a scholarship granting organization. It provides that the contribution must be used by the scholarship granting organization in a scholarship program to provide scholarships to eligible students. It specifies that the amount of a taxpayer's credit is equal to 50% of the amount of the contribution made to the scholarship granting organization for a school scholarship program. It limits the total amount of tax credits that may be awarded to $5,000,000 in any state fiscal year.

The bill defines "eligible student" as an individual who:
(1) has legal settlement in Indiana;
(2) is between five and 22 years of age;
(3) either has been or is currently enrolled in a participating school;
(4) either is a member of a household with an annual income of not more than 200% of the amount required for the individual to qualify for the federal free or reduced price lunch program or the individual received a scholarship in the immediately preceding school year or school term and qualified under the income requirements in the first year that the individual received a scholarship; and
(5) meets at least one of the following conditions:

> (A) The individual is enrolling in kindergarten.
> (B) The individual was enrolled in a public school during the school year preceding the first school year for which a scholarship granting organization provides a scholarship.
> (C) The individual received a scholarship in the previous year from a nonprofit scholarship granting organization that qualifies for certification as a school scholarship program.
> (D) The individual received a school scholarship for the previous school year.

The bill sets forth a process for the Department of State Revenue (DOR) to certify a scholarship program administered by a scholarship granting organization. It specifies that a participating school may be a public or nonpublic school that an eligible student is required to pay tuition or transfer tuition to attend. It provides that a scholarship granting organization must: (1) distribute at least 90% of the total amount of contributions as school scholarships to eligible students; and (2) distribute 100% of any income earned on contributions as school scholarships to eligible students. It provides that the scholarships are used for tuition (including transfer tuition) and fees that would otherwise be charged by a participating school to eligible students or parents of eligible students. It requires a participating school to either administer the ISTEP tests or administer another nationally recognized and norm referenced assessment of the school's students. It provides that a program may not be certified as a school scholarship program if the program: (1) limits a recipient of a school scholarship to attending specific participating schools; or (2) limits the ability of a recipient of a school scholarship to change attendance from one participating school to another participating school.

(The introduced version of this bill was prepared by the interim study committee on adult education issues.)

Effective Date: (Amended) upon Passage; July 1, 2009.

Explanation of State Expenditures: *Lifelong Learning Account Tax Credit*: The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new tax credit. The DOR will also have to track, approve, and monitor credit applications each year until the annual credit maximum is reached.

(Revised) *Lifelong Learning Account Pilot Program*: This bill requires the establishment and administration of a Lifelong Learning Account Pilot Program by the IHCDA, which would result in an administrative impact. They are required to establish guidelines regarding the eligibility of participation by individuals and financial institutions, and the permissible uses of money in the lifelong learning accounts. The IHCDA is also required to seek grants and other funding for the pilot program, and submit annual reports to the Governor and General Assembly on the pilot program. In 2014, the report must include conclusions and recommendations, and information about the cost and feasibility of expanding the pilot program. The costs associated with establishing and administering the program are unknown, but it is estimated that the pilot program could be accomplished within the IHCDA's existing resources. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

(Revised) *School Scholarship Tax Credit*: The DOR estimates that costs resulting from the provisions in this bill could be between $200,000 to $300,000, and may require two or three full-time staff.

The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new tax credit. The DOR is also required to provide the following information on their website: (1) the credit application; (2) the time line for receiving the credit; and (3) the amount of credits awarded during the current calendar year. Contributors will receive a receipt from a scholarship granting organization that must be prescribed by the DOR, and include the amount of the contribution that is designated for use in a scholarship program. The DOR must also certify all qualifying applicants for certification as scholarship granting organizations and maintain a publicly available list of school scholarship programs that are certified as eligible to participate in the credit program. If a scholarship granting organization is suspected of fraud, then the DOR may conduct either a financial review or an audit of the organization. This bill provides for the DOR to adopt temporary rules to implement the new chapter added, IC 20-51, which pertains to educational scholarships.

Tuition Support: The cost of state tuition support could potentially decrease to the extent that scholarships shift students from public to private schools. Any savings could potentially offset the cost of the tax credit to the extent that the tax credit encourages new contributions that otherwise would not have occurred. Any potential savings realized from fewer students attending public schools would depend on future tuition support formulas and those reduced expenditures not being reallocated to other areas.

Explanation of State Revenues: *Lifelong Learning Account Tax Credit*: This bill provides a new tax credit to individuals and corporations that make contributions to Lifelong Learning Accounts beginning in 2009. The amount of credits that will be claimed and the resulting fiscal impact on the state General Fund beginning in FY 2010 is unknown, but could be similar to the revenue loss resulting from the Individual Development Account credits, (see *Background Information* below). The amount of credits granted may not exceed $200,000 in any fiscal year.

The new tax credit is equal to 50% of the amount contributed by an individual to a Lifelong Learning Account if the contribution is greater than $100, but less than $2,000. The minimum amount to be claimed would be $50 and the maximum amount would be $1,000. The bill will not allow more than $200,000 in tax credits in any state fiscal year, with FY 2010 being the first year impacted. The credit may be taken against the Individual and Corporate Adjusted Gross Income (AGI) Tax, the Financial Institutions Tax (FIT), and the Insurance Premiums Tax (IPT).Revenue from the Individual and Corporate AGI Tax, the FIT and the IPT is distributed in the state General Fund.

(Revised) *School Scholarship Tax Credit*: This bill provides a nonrefundable tax credit to individuals and corporations that make contributions to scholarship granting organizations beginning in tax year 2010.The amount of credits that will be claimed and the resulting fiscal impact on the state General

Fund beginning in FY 2011 is indeterminable. However, the amount of credits granted may not exceed $5 M in any fiscal year. The credit is equal to 50% of the amount of the charitable contribution, and may be taken against the Individual and Corporate AGI Tax, the FIT, and the IPT. The tax credit may not be carried back or carried forward. Revenue from the Individual and Corporate AGI Tax, the FIT and the IPT is distributed in the state General Fund.

(Revised) _Background Information: School Scholarship Tax Credit_ - If 5,000 individuals or corporations donate $500 each, then the revenue loss would be $1.25 M. If 10,000 individuals or corporations donate $1,000 each, then the revenue loss would be $5 M. Charitable contributions must be made to school scholarship programs established by scholarship granting organizations to assist in payment of tuition, transfer tuition, and fees for eligible students.

Currently, there are approximately 7,770 students attending schools where tuition and fees were required and who qualified for the federal free or reduced price lunch program. This number has increased by approximately 0.22% since FY 2005. The average cost of education per student was approximately $6,350 for FY 2008. Assuming the average cost of education per student, approximately 1,600 students could receive support from contributions of $10 M–the maximum amount of contributions that would be eligible for the tax credit each fiscal year.

Eligible Students: The bill defines an eligible student as an individual who: (1) is an Indiana resident; (2) is between ages 5 and 22; (3) either has been or is currently enrolled in a participating school; (4) either lives in a household with an annual income of not more than 200% of the amount required for federal free or reduced price lunch or received a scholarship in the immediately preceding school year or term and met the income requirement; and (5) is either enrolling in kindergarten, was enrolled in a public school during the school year preceding the first school year for which a scholarship granting organization provided a scholarship, received a scholarship in the previous year from a nonprofit scholarship granting organization that qualifies for certification as a school scholarship program, or received a school scholarship for the previous year.

Participating Schools: The bill defines participating schools as public and nonpublic schools that: (1) an eligible student is required to pay tuition or transfer tuition to attend; (2) voluntarily agrees to enroll an eligible student; (3) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board; and (4) administers the tests under the Indiana Statewide Testing for Educational Progress (ISTEP) program or administers another nationally recognized and norm-referenced assessment of the school's students.

Individual Development Accounts - Individual Development Accounts, established by IC 4-4-28, are accounts in financial institutions administered by community development corporations that allow individuals to deposit money for the purposes of tuition, books, and other expenses incurred at a postsecondary institution, vocational school, or training program. Deposits may also be made to purchase a primary residence, to reduce the principal owed on a primary residence, for remodeling or repair of a primary residence, or to begin or to purchase part or all of a business or to expand an existing small business. Money deposited in these accounts may be matched by the state, financial institutions, corporations, and other entities. If the contribution is greater than $100, but less than $50,000, a tax credit may be claimed for 50% of the contribution. The minimum amount able to be claimed would be $50 and the maximum amount would be $25,000 for individuals. No more than $200,000 in tax credits may be claimed in any state fiscal year.

In tax year 2006, a total of 97 individual and corporate filers claimed $168,232 in Individual Development Account credits, and in tax year 2007, a total of 53 individual and corporate filers claimed $131,908. Because the Lifelong Learning Account credit's application is similar to the Individual Development Account credit, revenue loss due to the Lifelong Learning Account credit could be similar to revenue loss due to the Individual Development Account credit.

2009 Federal Poverty Level Guidelines:

2009 Federal Poverty Level Guidelines (Family Income per Year)				
Family Size	**130% FPL**	**185% FPL**	**200% of Amount Required for Reduced Price Lunch**	**300% FPL**
2	$18,941	$26,226	$52,452	$43,710
3	$23,803	$32,958	$65,916	$54,930
4	$28,665	$39,690	$79,380	$66,150
Each Additional Person	$4,862	$6,732	$13,464	$11,220

Students living in households with income that does not exceed 130% of the federal poverty level qualify for free lunch. Students living in households with income that does not exceed 185% of the federal poverty level qualify for reduced price lunch. For this bill, students eligible for scholarships must live in households that do not exceed 200% of the amount required for free or reduced price lunch, or they must have received a scholarship in the immediate preceding year or term and met the income requirement. Individuals are eligible to participate in the Lifelong Learning Account Pilot Program if their annual household income does not exceed 300% of the federal poverty level.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Indiana Housing and Community Development Authority.

Local Agencies Affected:

Information Sources: Stephanie Reeve, Indiana Housing and Community Development Authority, 317-233-4474; Robert Walls, Department of State Revenue, Tax Policy Division, 317-232-2104; *Federal Register*, Vol. 74, No.14, pp.4199-4201; Tom Conley, Department of State Revenue, 317-232-2107; Indiana Department of Education, Indiana K-12 Education Data, http://www.doe.state.in.us/.

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